

**REMARKS**

Examination of the application is respectfully requested.

**I. Status of the Claims**

Claims 26-35 and 39-43 are currently pending, with claims 1-25 and 36-38 having previously been canceled.

Claims 26 - 31 and 41 - 43 are presently withdrawn from consideration.

Claims 33 and 40 are canceled without prejudice or disclaimer, claims 32 and 39 are amended, and claims 44 - 53 are newly added. No new matter is introduced. Support for the amendments may be found, for example, with reference to Applicants' specification at page 3, lines 10 - 22, and at page 7, line 10 - page 12, line 14.

**II. Rejection of Claims under 35 U.S.C. § (103(a))**

Claims 32 - 35 and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,136,501 to Silverman et al. ("Silverman") in view of U.S. Patent No. 6,298,335 to Bernstein ("Bernstein"). Claim 40 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Silverman in view of Bernstein and U.S. Patent Publication No. 2001/0034689 to Heilman ("Heilman"). As claims 33 and 40 are canceled without prejudice or disclaimer, the rejections as to claims 33 and 40 are moot. Applicants amend claims 32 and 39 to further clarify the nature of their invention, and respectfully traverse the rejection of claims 32, 34, 35, and 39 under 35 U.S.C. § 103(a).

In amended independent claim 32, Applicants claim:

32. A method of changing a transaction from a first market type to a second market type, comprising the steps of:

at a first client device connected to a network, transmitting an offer to conduct the transaction that is received by a second client device connected to the network;

at the second client device, transmitting an acceptance of the offer to conduct the transaction;

determining whether a predetermined condition is met; and

automatically changing the transaction from the first market type to the second market type upon determining that the first predetermined condition is met.

(Emphasis added).

Silverman discloses a matching system for trading instruments that matches bids against offers (see, e.g., abstract of Silverman). In sharp contrast to Applicants' claimed method, and as acknowledged by the Examiner, the system of Silverman fails to provide for automatically changing a transaction market type from a first market type to a second market type upon determining that a predetermined condition has been met (for example, determining that a user making a successful bid against an offer lacks sufficient credit-worthiness in a market of the first market type). The Examiner however suggests that this feature is provided with the addition of Bernstein.

Bernstein discloses a system and method for negotiating payment terms for the payment of debt owed by a person to a payee (see, e.g., abstract of Bernstein). Under the method disclosed by Bernstein, a vendor (the payee) provides an interactive webpage that provides a user (the payer) with the ability to make "one or more offers ... of any number of purchase options" (see, e.g., Col. 3: 45 - 59 of Bernstein). Available options may be presented by the vendor on the webpage, and/or alternatively proposed by the user (see, e.g., Col. 4: 18 - 25). When the user and the vendor have

reached agreement through repeated negotiation on one or more options and associated terms, the user activates a “purchase” feature of the webpage to complete the transaction (see, e.g., Col. 4: 26 - 32 of Bernstein).

Unlike Applicants invention as claimed in amended independent claim 32, Bernstein fails to teach or suggest a method by which a market type is automatically changed from a first market type to a second market type upon determining that a predetermined condition is met (for example, the failure of a user to be credit-worthy in the market of the first type). Rather, the method of Bernstein relies on an active negotiation between the user and vendor in order to reach agreement as to payment mechanisms and associated terms.

In sharp contrast to Bernstein, Applicants teach a method which, upon evaluating whether or not the predetermined condition has been met, automatically causes a change in market type that occurs “seamlessly and without prompting the user” (see, e.g., page 10, lines 1 - 4 of Applicants’ specification). This approach provides the advantage, for example, of reducing delays in trades occurring in high-volume markets, without limiting trading to a single market type (see, e.g., page 2, lines 18 - 20 of Applicants’ specification). While Heilman discloses a method and system for negotiating transactions that adjusts the information content available to participants based upon predetermined conditions (see, e.g., paragraph [0072] of Heilman), Heilman does not teach or suggest making a change in selected market type on such a basis.

Accordingly, Applicants respectfully submit that Applicants invention as claimed in amended independent claim 32 is not made obvious by any combination of the cited references, and therefore stands in condition for allowance. As claims 34, 35 and 39 depend from allowable claim 32, Applicants submit that dependent claims 34, 35 and 39 are also allowable for at least this reason.

Accordingly, Applicants respectfully request that the rejection of claims 32, 34, 35 and 39 under 35 U.S.C. § 103(a) be withdrawn.

## II. New Claims

Applicants add new claims 44 - 52, which include new independent claims 44, 45 and 46. As new claims 47 - 50 depend from allowable claim 32, Applicants submit that new claims 47 - 50 are allowable for at least this reason.

Each of new independent claims 44, 45 and 46 claims a method for automatically changing a transaction from a first market type to a second type upon determining that a predetermined condition is met, or upon otherwise determining that the transaction may be completed as a transaction of the second market type. Therefore, Applicants respectfully submit that new claims 44, 45 and 46 are allowable for at least the same reasons argued above in reference to amended claim 32. As new claims 51 and 52 depend from allowable claim 44, and new claim 53 depends from allowable claim 46, Applicants submit that new claims 51 - 53 are also allowable for at least this reason.

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## **CONCLUSION**

Applicant believes the pending application is in condition for allowance. Accordingly, the Examiner is respectfully requested to examine this application and pass it to issue.

The Examiner is respectfully requested to contact the undersigned at the telephone number indicated below if the Examiner believes any issue can be resolved through either a Supplemental Response or an Examiner's Amendment.

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Respectfully submitted,

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